

1 **ARIZONA STATE BOARD OF PHARMACY**
2 **1616 W. Adams Street, Room 120**
3 **Phoenix, Arizona 85007**
4 **(602) 771-2727**

5 In the Matter of:

6 **Ana Espinoza,**

7 Holder of License No. T006449
8 in the State of Arizona

FINDINGS OF FACT, CONCLUSIONS
of LAW and BOARD ORDER
No. 14-0002-PHR

9
10 Pursuant to Notice of Hearing Number 14-0002-PHR (Notice) this matter came
11 before the Arizona State Board of Pharmacy (Board) on January 8, 2014.

12 Tom Van Hassel, president, presided with members Jim Foy, Bill Francis, Darren
13 Kennedy, Kyra Locnikar, Dennis McAllister, Reuben Minkus, John Musil, and Nona
14 Rosas in attendance.

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16 The State was represented by the Office of the Attorney General, Monty Lee,
17 Assistant Attorney General, Licensing and Enforcement Section. Ana Espinoza,
18 (Respondent) was not present and was not represented by an attorney. Christopher
19 Munns, Assistant Solicitor General, was available to provide independent legal advice to
20 the Board if necessary. The Board granted the State's motion to deem the allegations in
21 the Complaint to be admitted. Based upon A.R.S. § 32-1927.01(O) and the Complaint
22 and Notice of Hearing No. 14-0002-PHR filed in this matter, the Board issues the
23 following Findings of Fact and Conclusions of Law, and Order revoking Respondent's
24 license.
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FINDINGS OF FACT

1. During all relevant times to these findings, Respondent worked as a pharmacy technician at Bashas' Pharmacy #48 located at 1861 E. Warner Road, Tempe, Arizona (the "Pharmacy").

2. On or about February 19, 2013 Respondent was observed on a video camera surveillance tape recording engaging in activity consistent with stealing Cialis 5 mg. from the Pharmacy stock shelves.

3. On or about June 7, 2013 during an investigation of theft of controlled substances at the Pharmacy Respondent was interviewed and admitted that she took various quantities of Vicodin, Lorazepam, Morphine, Phentermine, Alprazolam, Clonazepam and Oxycodone from the Pharmacy stock shelves without a valid prescription and without paying for the medication. Respondent admitted that she had been stealing medications from the Pharmacy for approximately seven years. Respondent admitted to stealing over 34,000 tablets of medication valued at over \$5,285.00.

4. Respondent was terminated from her employment with the Pharmacy for violation of company policy stemming from her theft of these drugs.

CONCLUSIONS of LAW

1. The Board possesses jurisdiction over the subject matter and over Respondent pursuant to A.R.S. § 32-1901 et seq.

2. The Board may discipline a pharmacy technician who has engaged in unprofessional conduct. A.R.S. § 32-1927.01(A) (1).

1 3. The conduct and circumstances described above constitutes unprofessional
2 conduct -pursuant to A.R.S. § 32-1901.01 (C) (6) (Committing a felony, whether or not
3 involving moral turpitude, or a misdemeanor involving moral turpitude or any drug
4 related offense).

5 4. The conduct and circumstances described above constitutes a violation of
6 A.R.S. §
7 32-1968 (A) (A prescription-only drug shall be dispensed only on a written or
8 electronically transmitted prescription from a licensed medical practitioner).

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11 **ORDER**

12 In view of the above Findings of Fact and Conclusions of Law, the Board issues the
13 following Order:
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15 The pharmacy technician license issued to ANA ESPINOZA is hereby revoked.
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17 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

18 Respondent is hereby notified of the right to petition for a rehearing or review by
19 filing a petition with the Board's Executive Director within thirty (30) days after service
20 of this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons
21 for granting a rehearing. A.C.C. R4-23-128. Service of this order is effective five (5)
22 days after date of mailing. If a motion for rehearing is not filed, the Board's Order
23 becomes effective thirty-five (35) days after it is mailed to Respondent.
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26 Respondent is further notified that the filing of a motion for rehearing is required
27 to preserve any rights of appeal to the Superior Court.
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1 DATED this 13th day of January, 2014.

2
3 ARIZONA STATE BOARD OF PHARMACY

4
5 SEAL



6
7 Hal Wand, R.Ph.
8 Executive Director
9

10 COPY OF THE FOREGOING MAILED
11 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
this 14 day of January, 2014, to:

12 Arizona State Board of Pharmacy
13 1616 W. Adams Street
14 Phoenix, Arizona 85007

15 COPY OF THE FOREGOING MAILED
16 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
this 14 day of January, 2014, to:

17 Ana Espinoza
18 3404 S. Cutler Dr.
19 Tempe, Arizona 85282
20 Respondent

21 COPY OF THE FOREGOING MAILED
22 this 14 day of January, 2014, to:

23 Christopher Munns
24 Assistant Attorney General
25 1275 W. Washington Street, CIV/SGO
Phoenix, Arizona 85007
Attorney for the Board

26 Montgomery Lee
27 Assistant Attorney General
28 1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the State 